

<b>FILED</b>
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

**Amendment No. 1 to SB3791**

**Southerland  
Signature of Sponsor**

**AMEND Senate Bill No. 3791\***

**House Bill No. 3436**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-6-238(a)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(a)

(1)

(A) Any party or their attorney may request the assistance of a workers' compensation specialist in the determination of whether temporary disability or medical benefits are appropriate by filing with the division a form prescribed for that purpose by the commissioner.

(B) For injuries occurring on or after July 1, 2008, if the request for the assistance of a workers' compensation specialist is filed pursuant to (a)(1)(A) within the time prescribed by § 50-6-203 or § 50-6-306, the time within which to file a request for a benefit review conference shall not expire before sixty (60) days after the issuance of a benefit review report by the workers' compensation specialist making the determination on the request for assistance. This provision notwithstanding, in no event shall the parties have less time to file a request for benefit review conference than is prescribed by § 50-6-203 or § 50-6-306.

(C) With respect to the determination of whether to order the payment of temporary disability or medical benefits, a workers' compensation specialist shall not be an advocate for either party, but

shall decide such issues solely on the basis of the information available to such specialist without favor or presumption for or against either party.

SECTION 2. Tennessee Code Annotated, Section 50-6-238(d), is amended by deleting the word “reconsider” wherever it appears in the subsection and replacing it with the words “administratively review” and by deleting the word “reconsideration” wherever it appears in the subsection and replacing it with the words “administrative review” throughout the subsection.

SECTION 3. Tennessee Code Annotated, Section 50-6-238(d)(2)(A), is amended by deleting the third and final sentence and by substituting instead the following language:  
The administrator’s designee shall be a Tennessee licensed attorney, shall have a minimum of five (5) years of experience with the Tennessee Workers’ Compensation Law, and shall not be the specialist who issued the order that is the subject of administrative review.

SECTION 4. Tennessee Code Annotated, Section 50-6-239(b), is amended by deleting the period at the end of the subsection and adding the following language and punctuation:

, unless the benefit review conference process is otherwise exhausted pursuant to rules promulgated by the commissioner.

SECTION 5. Tennessee Code Annotated, Section 50-6-225(a)(2)(A), is amended by adding the following language after the word “claim” and before the comma in the first sentence:  
or the benefit review conference process is otherwise exhausted pursuant to rules promulgated by the commissioner

SECTION 6. Tennessee Code Annotated, Section 50-6-225(a)(2)(B), is amended by adding the following language after the word “claim” and before the comma in the first phrase:  
or the benefit review conference process is otherwise exhausted pursuant to rules promulgated by the commissioner

SECTION 7. Tennessee Code Annotated, Section 50-6-239(c), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(c)

(1) The division shall have the authority to schedule a date specific for the benefit review conference. The division shall endeavor to work with the parties or

their representatives to schedule a date convenient to the parties, and the parties shall cooperate in scheduling the conference. However, in the event the parties cannot agree to a date within forty-five (45) days of the date a benefit review conference is requested or the date on which the employee reaches maximum medical improvement, whichever date is later, the division shall schedule the conference on a specific date and give the parties written notice of the date and the parties shall attend the benefit review conference on the date scheduled by the division.

(2) If a request for a benefit review conference is on file for a period in excess of one year, the division shall have the authority to schedule a date specific for the benefit review conference and give the parties written notice at their last known address.

(3) If the division fails to conduct a benefit review conference within sixty (60) days of receipt of a request for a benefit review conference or the date on which the employee reaches maximum medical improvement, whichever date is later, the parties may agree to hire a private Rule 31 mediator to conduct the mediation. Any agreement reached through private Rule 31 mediation must be approved by a court or the department in accordance with 50-6-206.

SECTION 8. Tennessee Code Annotated, Section 50-6-246, is amended by designating the current language of the section as subsection (a) and by adding the following language as a new subsection:

(b)

(1) A physician or chiropractor shall determine the injured employee's anatomical impairment rating within ten (10) calendar days of the date the physician or chiropractor determines the injured employee has reached maximum medical improvement.

(2) At the time the physician or chiropractor determines the employees' anatomical impairment rating the rating shall be entered into the employee's

medical records. In a request for medical records pursuant to § 50-6-204, a medical provider, physician, chiropractor or hospital shall include the portion of the medical records that include the anatomical impairment rating.

(3) The employee's anatomical impairment rating shall be reported by the physician or chiropractor to the division of workers' compensation on a "final medical report" form prescribed by the commissioner within ten (10) calendar days of the date the physician or chiropractor determines the injured employee has reached maximum medical improvement.

(4) For the service of timely determining the anatomical impairment rating, completing the "final medical report" in its entirety and filing the report with the division, the physician or chiropractor shall charge no more than one hundred fifty dollars (\$150.00) for such service. The "final medical report" shall be fully completed. Failure to comply with this subsection shall constitute a violation of the Medical Fee Schedule Rules and subject the physician or chiropractor to penalties pursuant to § 50-6-204.

(5) This subsection shall apply to any employee who is determined by a physician or a chiropractor to have reached maximum medical improvement on or after July 1, 2008.

SECTION 9. Tennessee Code Annotated, Section 50-6-121, is amended by deleting the words "Tennessee Trial Lawyers' Association" wherever they appear and by substituting instead the words "Tennessee Association for Justice".

SECTION 10. Tennessee Code Annotated, Section 50-6-203(f), is amended by deleting the phrase and punctuation ", signed by the employee,"

SECTION 11. This act shall take effect upon becoming law, the public welfare requiring it.